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-BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

2007 JUN 13 A 11: 04

AZ CORP COMMISSION
DOCKET CONTROL

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JUN 13 2007

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IN THE MATTER OF THE APPLICATION OF
CHAPARRAL CITY WATER COMPANY, AN
ARIZONA CORPORATION, FOR A
DETERMINATION OF THE CURRENT FAIR
VALUE OF ITS UTILITY PLANT AND
PROPERTY AND FOR INCREASES IN ITS
RATES AND CHARGES FOR UTILITY SERVICE
BASED THEREON.

DOCKET NO. W-02113A-04-0616

PROCEDURAL ORDER

BY THE COMMISSION:

On August 24, 2004, Chaparral City Water Company ("Chaparral City") filed with the Commission an application for a determination of the current fair value of its utility plant and property and for increases in its rates and charges for utility service based thereon.

On September 30, 2005, the Commission issued Decision No. 68176, granting a rate increase to Chaparral City. Chaparral City thereafter timely submitted an Application for Rehearing of Decision No. 68176, alleging that the Commission's order was contrary to law, arbitrary and unsupported by the evidence. After Chaparral City's Application for Rehearing was denied by operation of law, Chaparral filed a Notice of Direct Appeal pursuant to A.R.S. § 40-254.01, appealing Decision No. 68176 to the Arizona Court of Appeals.

The Arizona Court of Appeals, Division One, considered Chaparral City's appeal, and on February 13, 2007, issued its Memorandum Decision. The Memorandum Decision, per Judge Lawrence F. Winthrop, Affirmed in Part, Vacated, and Remanded Decision No. 68176 to the Commission for further determination. The Court of Appeals' Memorandum Decision addressed two issues: the Commission's methodology used to determine cost of equity, and the Commission's

1 methodology used to determine the operating income of Chaparral City. While the Court of Appeals
 2 affirmed the Commission's cost of equity methodology, it found that the methodology used to
 3 establish a rate of return on Chaparral City's fair value rate base did not comport with the
 4 requirements of the Arizona Constitution, and remanded the matter to the Commission for further
 5 determination.

6 The parties to Decision No. 68176 include Chaparral City, the Residential Utility Consumer
 7 Office ("RUCO"), and the Commission's Utilities Division Staff ("Staff").

8 On June 1, 2007, Staff filed a Request for Procedural Order proposing a procedural schedule
 9 for the remand proceeding ordered by the Court of Appeals.
 10

11 No party to this proceeding timely filed a response to Staff's Request for Procedural Order.

12 On June 7, 2007, pursuant to A.A.C. R14-3-101, the Commission issued a Remand Hearing
 13 Procedural Order to govern the preparation and conduct of the remand proceeding. The procedural
 14 schedule is as follows:

| | | |
|----|--|--------------------|
| 16 | Chaparral City Direct Testimony | July 13, 2007 |
| 17 | Staff and Intervenor Direct Testimony | August 30, 2007 |
| 18 | Chaparral City Rebuttal Testimony | September 14, 2007 |
| 19 | Staff and Intervenor Surrebuttal Testimony | September 26, 2007 |
| 20 | Chaparral City Rejoinder Testimony | October 3, 2007 |
| | Pre-Hearing Conference | October 10, 2007 |
| | Hearing | October 16, 2007 |

21 The Remand Hearing Procedural Order established the foregoing schedule for a remand
 22 proceeding for the purpose of establishing an appropriate methodology to determine the required
 23 operating income of Chaparral City by reference to its fair value rate base, and requires the parties to
 24 Decision No. 68176 to provide testimony and exhibits in support of their proposed methodology for
 25 determining the required operating income of Chaparral City by reference to its fair value rate base,
 26 and in support of proposed rates, if different from existing rates. The Remand Hearing Procedural
 27 Order states that once the required operating income of Chaparral City by reference to its fair value
 28

1 rate base is determined, it will be necessary to determine just and reasonable rates designed to recover
2 the revenue requirement that emerges from the calculation. The Remand Hearing Procedural Order
3 further states that if the results of the process demonstrate that the rates established for Chaparral City
4 by Decision No. 68176 are either too high or too low, the Commission should consider whether it is
5 necessary to provide a mechanism for a refund or surcharge, if the public interest dictates, and that
6 depending on whether the parties' proposed methodologies result in a measurably different revenue
7 requirement, it may be necessary to reassess rate design.

8
9 On June 8, 2005, Chaparral City filed a Notice of Filing Revised Schedules of Rates and
10 Charges for Utility Service.

11 Also on June 8, 2007, Chaparral City filed its Response in Opposition to Staff's Request for
12 Procedural Order.

13 On June 11, 2007, Chaparral City filed a Motion to Vacate Remand Hearing Procedural Order
14 and to Set Procedural Conference.

15 In its June 11, 2007 motion, Chaparral City argued that the issuance of the Remand Hearing
16 Procedural Order was improper and deprived Chaparral City of its right to respond to Staff's June 1,
17 2007 Request for Procedural Order. The Rate Case Procedural Order issued in this docket on
18 September 28, 2004 required any responses to motions to be filed within five days of the filing date
19 of the motion. The Procedural Order defined "days" as calendar days, in accordance with
20 Commission practice. As noted by Chaparral City in its June 11, 2007 Motion to Vacate Remand
21 Hearing Procedural Order and to Set Procedural Conference, Staff's June 1, 2007 Request for
22 Procedural Order constituted a motion, and responses to it were due within five calendar days, by
23 June 6, 2007. Chaparral City's response was filed two days later, on June 8, 2007. Chaparral City
24 did not request an extension of the filing deadline. The issuance of the Remand Hearing Procedural
25 Order was not improper, and did not deprive Chaparral City of its right to respond to Staff's June 1,
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1 2007 Request for Procedural Order.

2 In its June 11, 2007 motion, Chaparral City requested that the Commission consider its late-
 3 filed June 8, 2007 Response in Opposition to Staff's Request for Procedural Order ("Response"),
 4 which proposed that the Commission consider an alternative hearing schedule to that requested by
 5 Staff. Chaparral City claims in its June 11, 2007 motion that the schedule requested by Staff, and
 6 adopted by the Remand Hearing Procedural Order, is "unnecessarily complex and time-consuming,
 7 and will lead to significant rate case expense." Chaparral City states in its Response that its proposed
 8 methodology for determining operating income has not changed from that which was "fully and more
 9 than adequately set forth in the record" and that it "does not need to file three more rounds of
 10 testimony."
 11

12 Chaparral City proposed the following procedural schedule in its Response:

| | | |
|----|---------------------------------------|--------------------|
| 13 | Chaparral City Revised Rate Schedules | June 8, 2007 |
| 14 | Staff and Intervenor Response | July 16, 2007 |
| 15 | Chaparral City Reply | August 3, 2007 |
| 16 | Hearing | by August 13, 2007 |

17 Chaparral City argues in its Response that "the only issue before the Commission is the
 18 proper application of the rate of return to the Company's fair value rate base." At this point in the
 19 remand proceeding, it is as yet unknown whether that issue is as narrow as Chaparral City asserts. As
 20 noted in Remand Hearing Procedural Order, if the Commission determines that the cost of capital
 21 methodology is not the appropriate methodology to determine the rate of return to be applied to the
 22 fair value rate base, the Commission has the discretion to determine the appropriate methodology.
 23 Court of Appeals Memorandum Decision at ¶ 17. Once the required operating income of Chaparral
 24 City by reference to its fair value rate base is determined, it will be necessary to determine just and
 25 reasonable rates designed to recover the revenue requirement that emerges from the calculation. If
 26 the results of the process demonstrate that the rates established for Chaparral City by Decision No.
 27
 28

1 68176 are either too high or too low, the Commission will need to consider whether it is necessary to
2 provide a mechanism for a refund or surcharge, if the public interest dictates. Depending on whether
3 the parties' proposed methodologies result in a measurably different revenue requirement, it may be
4 necessary to reassess rate design.

5 The procedural schedule established in the Remand Hearing Procedural Order will allow all
6 the parties an opportunity to develop a record upon which the Commission can base its determination
7 regarding an appropriate methodology to set just and reasonable rates for Chaparral City, and
8 regarding an appropriate mechanism for implementation of the resulting rates. The procedural
9 schedule proposed by Chaparral City is inadequate to address the issues raised by the remand in a
10 manner that will fully inform the Commission in its determination as ordered by the Court of
11 Appeals.
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13 In its June 11, 2007 motion, Chaparral City requested that a procedural conference be set, in
14 part because "[c]ertain of the dates proposed by Staff create scheduling conflicts for Chaparral City
15 and its counsel." The June 11, 2007 motion did not indicate which of the dates caused a conflict. It
16 is appropriate to schedule a telephonic procedural conference for the purpose of making minor
17 adjustments in the established procedural schedule as necessary to eliminate the referenced conflicts.
18 Chaparral City should be required to inform the parties in advance of the procedural conference of
19 the dates which create scheduling conflicts.
20

21 IT IS THEREFORE ORDERED that a **transcribed telephonic procedural conference** in
22 the above-captioned matter shall commence on **June 22, 2007, at 11:00 a.m.**, or as soon thereafter as
23 is practical, at the Commission's offices, 1200 West Washington Street, Arizona 85007.
24

25 IT IS FURTHER ORDERED that parties shall call **602-542-9004** at the designated time to
26 connect to the call.

27 IT IS FURTHER ORDERED that **parties** shall file, by **June 18, 2007**, a list of **any dates** in
28

1 the established procedural schedule in this proceeding **which create scheduling conflicts.**

2 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
3 Communications) applies to this proceeding as the matter is now set for public hearing.

4 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
5 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

6 IT IS FURTHER ORDERED that all parties must comply with Rule 33(c) and 38(a) of the
7 Rules of the Arizona Supreme Court with respect to practice of law and admission *pro hac vice*.

8 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
9 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
10 Rules of Arizona Supreme Court). Representation before the Commission includes the obligation to
11 appear at all hearings and procedural conferences, as well as all Open Meetings for which the matter
12 is scheduled for discussion, unless counsel has previously been granted permission to withdraw by
13 the Administrative Law Judge or the Commission.
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15 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
16 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.
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18 DATED this 13th day of June, 2007.

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22 
23 TEENA WOLFE
24 ADMINISTRATIVE LAW JUDGE
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1 Copies of the foregoing mailed/delivered
2 this 13th day of June, 2007 to:

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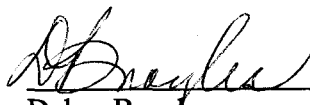
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